

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Document # 43

-----  
USA

USCA NO. 08-1672-CR

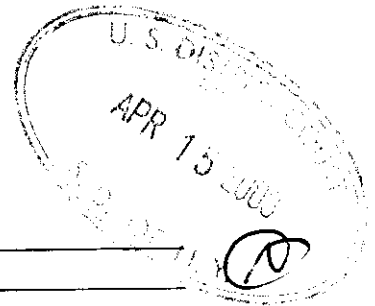
-v-

Jeffrey Musumeci  
-----

SDNY NO. 07CR 402  
JUDGE: Richard Berman  
DATE: 4/15/08

INDEX TO THE RECORD ON APPEAL

PREPARED BY (NAME) Julio Delara  
FIRM Legal EASE INC  
ADDRESS 139 Fulton Street  
New York, NY 10038  
PHONE NO. 212-393-9070



DISTRICT COURT DOCKET ENTRIES -----

DOCUMENTS

DOC#

\_\_\_\_\_  
Clerk's Certificate

\_\_\_\_\_  
See Attached List of Numbered Documents

\_\_\_\_\_  
Only Circled Documents Included

(☒) Original Record

(☐) Supplemental Record

The record in the above entitled case was indexed to the U.S.C.A.  
for the Second Circuit on the 15th Day of April, 2008.



United States District Court for  
the Southern District of New York

USA

-v-

Jeffrey Musumeci

Date: 4/15/08  
U.S.C.A. # 08-1672-CR  
U.S.D.C. # 07 CR 402  
D.C. JUDGE: Richard Berman

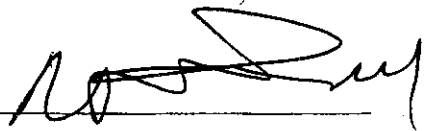
Clerk's Certificate

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 7 Through 42, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

<u>Date Filed</u>	<u>Document Description</u>
<u>4/3/08</u>	<u>Letter by USA</u>

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York, this 15<sup>th</sup> Day of April In this year of our Lord, Two Thousand and Eight, and the Independence of the United States this 232<sup>nd</sup> year.

J. Michael McMahon, Clerk

By   
Deputy Clerk



APPEAL, CLOSED, ECF, PRIOR

**U.S. District Court  
United States District Court for the Southern District of New York (Foley Square)  
CRIMINAL DOCKET FOR CASE #: 1:07-cr-00402-RMB-1  
Internal Use Only**

Case title: USA v. Musumeci  
Magistrate judge case number: 1:07-mj-00544-UA

Date Filed: 05/09/2007  
Date Terminated: 04/03/2008

Date Filed	#	Docket Text
04/09/2007	<u>1</u>	COMPLAINT as to Jeffrey Musumeci (1). In Violation of 18 U.S.C. 2422 (b) and 18 U.S.C. 2251 (a), (e) (Child Enticement and Attempted Production of Child Pornography) (Signed by Judge Gabriel W. Gorenstein ) (dif) [1:07-mj-00544-UA] (Entered: 04/11/2007)
04/10/2007	<u>3</u>	Arrest Warrant Returned Executed on 4/10/07 as to Jeffrey Musumeci. (dif) [1:07-mj-00544-UA] (Entered: 04/11/2007)
04/10/2007		Arrest of Jeffrey Musumeci. (dif) [1:07-mj-00544-UA] (Entered: 04/11/2007)
04/10/2007	<u>4</u>	NOTICE OF ATTORNEY APPEARANCE: Retained Attorney Michael Soshnick appearing for Jeffrey Musumeci. (dif) [1:07-mj-00544-UA] (Entered: 04/11/2007)
04/10/2007		Minute Entry for proceedings held before Judge James C. Francis :Initial Appearance as to Jeffrey Musumeci held on 4/10/2007., with Retained Attorney Michael Sushnick and AUSA Adam Hickey for the government. \$50,000 PRB; ONE FRP'S; Travel Limited to SDNY/EDNY; Surrender Travel Documents (& No New Applications); Strict Pretrial Supervision with Drug Testing/Treatment; Home Detention with Electronic Monitoring; Release for Work, Court, Counsel, Other as PTS OK'S; Deft to be Released upon Own Signature; Remaining Conditions to be Met by 4/11/07 (1 FRP); Preliminary Examination set for 5/10/2007 10:00 AM before Judge Unassigned. (dif) [1:07-mj-00544-UA] (Entered: 04/11/2007)
04/10/2007	<u>5</u>	PRB APPEARANCE Bond Entered as to Jeffrey Musumeci in amount of \$ 50,000 PRB, ONE FRP'S; Travel Limited to SDNY/EDNY; Surrender Travel Documents (& No New Applications); Strict Pretrial Supervision with Drug Testing/Treatment; Home Detention with Electronic Monitoring; Release for Work, Court, Counsel, Other as PTS OK'S; Deft to be Released upon Own Signature; Remaining Conditions to be Me by 4/11/07 (One FRP) (dif) [1:07-mj-00544-UA] (Entered: 04/11/2007)
04/10/2007	<u>6</u>	ADVICE OF PENALTIES AND SANCTIONS as to Jeffrey Musumeci. (dif) [1:07-mj-00544-UA] (Entered: 04/11/2007)
04/20/2007	<u>7</u>	AFFIRMATION and Application of Adam S. Hickey by USA as to Jeffrey Musumeci, purs to the All Writs Act, for an order to unseal the New York County District Attorney's Office files and the grand jury testimony relating to the 11/29/05 arrest of Jeffrey Musumeci.(vb) [1:07-mj-00544-UA] (Entered: 04/24/2007)
04/20/2007	<u>8</u>	ORDER as to Jeffrey Musumeci, Granting the application to Unseal the files maintained by the the New York County District Attorney's Office and the grand jury testimony and associated court files relating to the 11/29/05 arrest of Jeffrey Musumeci. (signed by Judge John F. Keenan on 4/20/07)(vb) [1:07-mj-00544-UA] (Entered: 04/24/2007)
05/09/2007	<u>9</u>	INDICTMENT FILED as to Jeffrey Musumeci (1) count(s) 1, 2. (jm) (Entered: 05/10/2007)
05/09/2007		Case Designated ECF as to Jeffrey Musumeci. (jm) (Entered: 05/10/2007)
05/14/2007	<u>0</u>	Minute Entry for proceedings held before Judge Henry B. Pitman :Arraignment as to Jeffrey Musumeci (1) Count 1,2 held on 5/14/2007. Deft Jeffrey Musumeci present atty Michael Soshnick. Deft arraigned and pleaded not guilty. (jar) (Entered: 05/17/2007)
05/14/2007		Minute Entry for proceedings held before Judge Henry B. Pitman : Plea entered by Jeffrey Musumeci (1) Count 1,2 Not Guilty. (jar) (Entered: 05/17/2007)
05/14/2007		Minute Entry for proceedings held before Judge Richard M. Berman :Pretrial Conference as to Jeffrey Musumeci held on 5/14/2007. AUSA Hickey present; Deft Musumeci present with defense atty Michael Soshnick; Court Reporter Bill Richards present; conference held; pre-trial conference is scheduled for 7/9/07 at 2:15 p.m.; pre-trial submissions due by 7/6/07; responses to motions in limine due by 7/13/07; bail conditions modified to include the following: no internet access in the home; no contact with minors other than family members; Speedy Trial time is excluded for the reasons set forth on the record from 5/14/07 until 7/9/07 pursuant to 18 USC 3161(h)(8)(A)(B). (bw) (Entered: 05/18/2007)
05/14/2007		ORAL ORDER as to Jeffrey Musumeci. Time excluded from 5/14/07 until 7/9/07. Motions due by 7/6/2007. Responses due by 7/13/2007. Pretrial Conference set for 7/9/2007 02:15 PM before Judge Richard M. Berman. (bw) (Entered: 05/18/2007)



07/06/2007	<u>10</u>	ENDORSED LETTER as to Jeffrey Musumeci addressed to Judge Berman from Attorney Michael L. Soshnick dated 7/6/07 re: submitted to request that the parties be given until 7/13/07 to submit their proposed jury instructions and that the status conference previously scheduled for 7/9/07 be adjourned to 7/16/07 at 1:00 p.m. ENDORSEMENT: Application Granted. Conference is adjourned until 7/16/07 at 11:30 A.M. (Signed by Judge Richard M. Berman on 7/6/07)(bw) (Entered: 07/06/2007)
07/06/2007		Set/Reset Deadlines/Hearings as to Jeffrey Musumeci: Brief (proposed jury instructions )due by 7/13/2007. Status Conference set for 7/16/2007 at 11:30 AM before Judge Richard M. Berman. (bw) (Entered: 07/06/2007)
07/10/2007	<u>11</u>	ENDORSED LETTER as to Jeffrey Musumeci addressed to Judge Berman from AUSA Adam S. Hickey dated 7/6/07 re: the Govt proposes to submit its motion in limine next Friday, 7/13/07, and that any response be due on Friday, 7/20/07. ENDORSEMENT: Application Granted on consent. (Signed by Judge Richard M. Berman on 7/10/07)(bw) (Entered: 07/10/2007)
07/10/2007		Set/Reset Deadlines/Hearings as to Jeffrey Musumeci: Motions in limine due by 7/13/2007. Responses due by 7/20/2007. (bw) (Entered: 07/10/2007)
07/13/2007	<u>12</u>	FILING ERROR - WRONG DOCUMENT TYPE SELECTED FROM MENU - FIRST MOTION in Limine To Exclude Entrapment Defense (MEMORANDUM OF LAW IN SUPPORT OF MOTION IN LIMINE). Document filed by USA as to Jeffrey Musumeci. (Hickey, Adam) Modified on 7/16/2007 (KA). (Entered: 07/13/2007)
07/13/2007	<u>13</u>	FILING ERROR - DEFICIENT DOCKET ENTRY - AFFIRMATION of Adam S. Hickey in Support by USA as to Jeffrey Musumeci re <u>12</u> FIRST MOTION in Limine To Exclude Entrapment Defense. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E# <u>6</u> Exhibit F# <u>7</u> Exhibit G# <u>8</u> Exhibit H# <u>9</u> Exhibit I# <u>10</u> Exhibit J# <u>11</u> Exhibit K# <u>12</u> Exhibit L)(Hickey, Adam) Modified on 7/16/2007 (KA). (Entered: 07/13/2007)
07/16/2007		NOTE TO ATTORNEY TO RE-FILE DOCUMENT - DOCUMENT TYPE ERROR. Note to Attorney Adam Sean Hickey as to Jeffrey Musumeci: to RE-FILE Document <u>12</u> FIRST MOTION in Limine To Exclude Entrapment Defense. Use the document type Memorandum of Law in support of motion found under the document list Replies, Opposition and Supporting Documents. Filing of the motion does not appear on the docket. Please file motion and then supporting documents. Each must have a separate docket entry. (KA) (Entered: 07/16/2007)
07/16/2007		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - DEFICIENT DOCKET ENTRY ERROR. Note to Attorney Adam Sean Hickey as to Jeffrey Musumeci: to RE-FILE Document <u>13</u> Affirmation in Support of Motion. (KA) (Entered: 07/16/2007)
07/16/2007	<u>14</u>	MEMORANDUM in Support by USA as to Jeffrey Musumeci re <u>12</u> FIRST MOTION in Limine To Exclude Entrapment Defense.. (Hickey, Adam) (Entered: 07/16/2007)
07/16/2007	<u>15</u>	AFFIRMATION of Adam S. Hickey in Support by USA as to Jeffrey Musumeci re <u>12</u> FIRST MOTION in Limine To Exclude Entrapment Defense.. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit F# <u>6</u> Exhibit F# <u>7</u> Exhibit G# <u>8</u> Exhibit H# <u>9</u> Exhibit I# <u>10</u> Exhibit J# <u>11</u> Exhibit K# <u>12</u> Exhibit L)(Hickey, Adam) (Entered: 07/16/2007)
07/16/2007		Minute Entry for proceedings held before Judge Richard M. Berman :Pretrial Conference as to Jeffrey Musumeci held on 7/16/2007. Dft Jeffrey Musumeci pres w/atty Michael Soshnick. AUSA Hickey pres. Jury Trial set for 9/17/2007 at 09:00 AM before Judge Richard M. Berman. T/E from 7/16/07 until 9/17/07.(Court Reporter Vincent Bologna) (ja) (Entered: 07/16/2007)
07/19/2007	<u>16</u>	FILING ERROR - WRONG DOCUMENT TYPE SELECTED FROM MENU - FIRST MOTION in Limine (AFFIRMATION IN OPPOSITION). Document filed by Jeffrey Musumeci. Return Date set for 7/20/2007 at 09:30 AM. (Soshnick, Michael) Modified on 7/20/2007 (KA). (Entered: 07/19/2007)
07/20/2007		NOTE TO ATTORNEY TO RE-FILE DOCUMENT - DOCUMENT TYPE ERROR. Note to Attorney Michael L. Soshnick as to Jeffrey Musumeci: to RE-FILE Document <u>16</u> FIRST MOTION in Limine. Use the document type Affirmation in Opposition to Motion found under the document list Replies, Opposition and Supporting Documents. (KA) (Entered: 07/20/2007)
07/24/2007	<u>17</u>	TRANSCRIPT of Proceedings as to Jeffrey Musumeci held on 5/14/07 before Judge Richard M. Berman. (jdo) (Entered: 07/24/2007)
08/13/2007	<u>18</u>	TRANSCRIPT of Proceedings as to Jeffrey Musumeci held on 7/16/07 before Judge Richard M. Berman. (jbc) (Entered: 08/13/2007)
09/12/2007	<u>19</u>	WITNESS LIST by Jeffrey Musumeci. (Soshnick, Michael) (Entered: 09/12/2007)
09/12/2007		Minute Entry for proceedings held before Judge Richard M. Berman :Pretrial Conference as to Jeffrey Musumeci held on 9/12/2007. Dft Jeffrey Musumeci pres on telephone with defense atty Soshnick; AUSAs Hickey and Johnson pres; motion in limine to preclude defense of entrapment denied w/o prejudice; Jury Trial set for 9/17/2007 at 09:30 AM before Judge Richard M. Berman. (Court Reporter Karen Gorlaski) (ja) (Entered: 09/17/2007)
09/17/2007		Minute Entry for proceedings held before Judge Richard M. Berman :Voir Dire begun on 9/17/2007 Jeffrey Musumeci (1) on Count 1,2. AUSA Hickey present; AUSA Johnson present; Detective Sean Ryan present; Dft Jeffrey Musumeci present w/defense atty Michael Soshnik; Court Reporters Denise Richards and Rebecca Forman present; Trial begins; Jury selection; opening statements; testimony begins. (bw) (Entered: 09/24/2007)



09/17/2007		Minute Entry for proceedings held before Judge Richard M. Berman :Jury Trial as to Jeffrey Musumeci held on 9/17/2007. (bw) (Entered: 09/24/2007)
09/18/2007		Minute Entry for proceedings held before Judge Richard M. Berman :Jury Trial as to Jeffrey Musumeci held on 9/18/2007. Trial continues; appearances remain the same; court recesses for the day; charge conference held. (bw) (Entered: 09/24/2007)
09/19/2007		Minute Entry for proceedings held before Judge Richard M. Berman :Jury Trial as to Jeffrey Musumeci held on 9/19/2007. Charge conference held; trial continues; appearances remain the same; trial concludes; closing arguments made; jury charged; Jury renders verdict - guilty on counts one and two; defense motion due 10/17/07; govt response due 10/24/07; PSR ordered; defense attorney to be present for interview; sentence is scheduled for 12/13/07 at 2:00 p.m.; defense sentencing submission is due 11/28/07; govt response is due 12/5/07. (bw) (Entered: 09/24/2007)
09/19/2007		JURY VERDICT as to Jeffrey Musumeci (1) Guilty on Count 1,2. (bw) (Entered: 09/24/2007)
09/19/2007		Order of Referral to Probation for Presentence Investigation and Report as to Jeffrey Musumeci. (bw) (Entered: 09/24/2007)
09/19/2007		ORAL ORDER as to Jeffrey Musumeci. Motions due by 10/17/2007. Responses due by 10/24/2007. Brief (sentencing submission) due by 11/28/2007. Responses (by govt) to Brief due by 12/5/2007. Sentencing set for 12/13/2007 at 02:00 PM before Judge Richard M. Berman. (bw) (Entered: 09/24/2007)
09/21/2007	20	AFFIRMATION of Michael L. Soshnick in Opposition to the Govt's Motion In Limine as to Jeffrey Musumeci. (jar) (Entered: 09/21/2007)
09/21/2007	21	Letter by USA as to Jeffrey Musumeci addressed to Judge Richard M. Berman from Adam S. Hickey dated 7/13/2007 re: submitting a joint proposed jury charge, verdict sheet, separate statements of the case by the Govt and the dft, for use during voir dire, and a list of names and places that may come up at trial, for use of voir dire. (jar) (Entered: 09/21/2007)
09/21/2007	22	Letter by Jeffrey Musumeci addressed to Judge Richard M. Berman from Adam S. Hickey dated 9/18/2007 re: Govt's proposed changes to the Court's charge. (jar) (Entered: 09/21/2007)
09/21/2007	23	Court Exhibits, as to Jeffrey Musumeci. (ja) (Entered: 09/24/2007)
09/24/2007	24	TRANSCRIPT of Proceedings as to Jeffrey Musumeci held on 9/12/07 before Judge Richard M. Berman. (jbe) (Entered: 09/24/2007)
10/18/2007	25	ENDORSED LETTER as to Jeffrey Musumeci addressed to Judge Berman from Attorney Michael L. Soshnick dated 10/16/07 re: submitted to request that the time for the defendant to provide a written submission in support of the pending Rule 29 Motion be extended from 10/17/07 to 10/31/07, the Govt be given until 11/14/07 to submit their response. ENDORSEMENT: Application Granted on Consent. (Signed by Judge Richard M. Berman on 10/18/07)(bw) (Entered: 10/18/2007)
10/18/2007		Set/Reset Deadlines/Hearings as to Jeffrey Musumeci: Brief (Def't's submission in support of the pending Rule 29 Motion) due by 10/31/2007. Responses (by Govt) to Brief due by 11/14/2007. (bw) (Entered: 10/18/2007)
10/25/2007	26	PROBATION FORM 51213 PETITION as to Jeffrey Musumeci. Petitioning the Court: To request that Your Honor order that a psychosexual evaluation be performed by the NYC Center for Neuropsychology & Forensic Behavioral Science. The Court Orders: Psychosexual evaluation ordered Adjournment granted New date and time 1/14/08 at 9:00am. (Signed by Judge Richard M. Berman on 10/24/07)(jw) (Entered: 10/26/2007)
10/31/2007	27	FILING ERROR - ELECTRONIC FILING FOR NON-ECF DOCUMENT - FIRST MOTION to Set Aside Verdict pursuant to rule 29 and rule 33 and unconstitutional application of statute as to second count of indictment(LETTER). Document filed by Jeffrey Musumeci. Return Date set for 11/14/2007 at 11:59 PM. (Soshnick, Michael) Modified on 11/1/2007 (KA). (Entered: 10/31/2007)
11/01/2007		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - NON-ECF DOCUMENT ERROR. Note to Attorney Michael L. Soshnick as to Jeffrey Musumeci: to MANUALLY RE-FILE Document No. 27 Letter. This document is not filed via ECF. (KA) (Entered: 11/01/2007)
11/07/2007	28	TRANSCRIPT of Proceedings as to Jeffrey Musumeci held on 9/17/2007, 9/18/2007 and 9/19/2007 before Judge Richard M. Berman. (jpo) (Entered: 11/07/2007)
01/04/2008	29	ORDER as to Jeffrey Musumeci. On 9/19/07, Jeffrey Musumeci ("Defendant" or "Musumeci") was convicted by a jury of the crimes of: i) attempting to entice a minor to engage in sexual activity under 18 U.S.C. Section 2422(b), and ii) attempting to produce child pornography under 18 U.S.C. Section 2251(a) and (e). On 10/31/07, the Defendant moved ("Def. Mot.") pursuant to Rules 29 and 33 respectively of the F.R.Cr.P., to set aside the verdict and to grant a new trial in the interests of justice." (Def. Mot. at 1.) Defendant "further moves to set aside Count Two on the basis of the unconstitutional application of the statute in this case." (Def. Mot. at 1.) By letter dated 11/13/07, ("Gov't Letter"), the Government opposes the Defendant's motion. For the reasons set forth below, Defendant's motion is denied....[See Order]... Conclusion: Viewing the evidence in the light most favorable to the Government and drawing all reasonable inferences in the Government's favor under Rule 29, the Court finds that a reasonable jury could find -- as the jury in this case did find -- all the essential elements of both crimes charged were established beyond a reasonable doubt. Moreover, the Court does not find that it would be a manifest injustice to allow the guilty verdict to stand (on either count) or that the interest of justice requires a new trial under Rule 33. The Court further finds that 18 U.S.C. Section



		2251(a) and (e) is constitutional. Sentencing is scheduled for 1/14/08 at 9:00 a.m. Defense sentencing submissions are due on 1/7/08, and the Government's response is due on 1/10/08. (Signed by Judge Richard M. Berman on 1/4/08)(bw) (Entered: 01/04/2008)
01/04/2008		Set/Reset Deadlines/Hearings as to Jeffrey Musumeci: Brief (Defense sentencing submissions) due by 1/7/2008. Responses (by Govt) to Brief due by 1/10/2008. Sentencing set for 1/14/2008 at 09:00 AM before Judge Richard M. Berman. (bw) (Entered: 01/04/2008)
01/04/2008	30	PROBATION FORM PETITION as to Jeffrey Musumeci. Petitioning the Court: Adjournment of sentence. The Court Orders: Adjournment granted. Parties to contact court deputy to reschedule sentence as early as practical.(see attached endorsement for full text) (Signed by Judge Richard M. Berman on 1/4/08)(pr) (Entered: 01/04/2008)
01/07/2008	31	Letter by USA as to Jeffrey Musumeci addressed to Judge Berman from Adam S. Hickey dated 11/13/07 re: The Government respectfully submits this letter in opposition to the defendant's motion, pursuant to Rules 29 and 33 of the Federal Rules of Criminal Procedure, for a judgment of acquittal or, in the alternative, for a new trial pursuant to Rule 33, should be denied, because sufficient evidence supported the jury's verdict of guilty on both counts of the Indictment. (jw) (Entered: 01/08/2008)
02/14/2008		Minute Entry for proceedings held before Judge Richard M. Berman:Status Conference as to Jeffrey Musumeci held on 2/14/2008. AUSA Hickey present; Deft and defense attorney present; Court Reporter Alena Lynch present; Court adjourns the sentence; Defense requests Fort Dix and substance abuse treatment program while incarcerated; sentence is now scheduled for 4/3/08 at 2:30 p.m. (bw) (Entered: 02/26/2008)
02/14/2008		ORAL ORDER as to Jeffrey Musumeci. Sentencing set for 4/3/2008 at 02:30 PM before Judge Richard M. Berman. (bw) (Entered: 02/26/2008)
03/17/2008	32	TRANSCRIPT of Proceedings as to Jeffrey Musumeci held on 2/14/2008 before Judge Richard M. Berman. (ama) (Entered: 03/17/2008)
04/02/2008	33	NOTICE OF ATTORNEY APPEARANCE: Mark M. Baker appearing for Jeffrey Musumeci. (Baker, Mark) (Entered: 04/02/2008)
04/02/2008	34	FILING ERROR - ELECTRONIC FILING FOR NON-ECF DOCUMENT - MOTION for Acquittal <i>supplemental motion</i> . Document filed by Jeffrey Musumeci. (Baker, Mark) Modified on 4/2/2008 (db). (Entered: 04/02/2008)
04/02/2008		***NOTE TO ATTORNEY THAT THE ATTEMPTED FILING OF Document No. 34 as to Defendant(s) Jeffrey Musumeci: HAS BEEN REJECTED. Note to Attorney Mark M. Baker: Other than letters filed under a cover marked Sentencing Memorandum, THE CLERK'S OFFICE DOES NOT ACCEPT LETTERS FOR FILING either through ECF or otherwise, except where the judge has ordered that a particular letter be docketed. Letters may be sent directly to a judge. (db) (Entered: 04/02/2008)
04/03/2008	35	ORDER as to Jeffrey Musumeci. For the reasons stated on the record today, the defendant is hereby remanded. (Signed by Judge Richard M. Berman on 4/3/08)(jw) (Entered: 04/04/2008)
04/03/2008		Minute Entry for proceedings held before Judge Richard M. Berman:Sentencing held on 4/3/2008 for Jeffrey Musumeci (1) Count 1,2. (jw) (Entered: 04/04/2008)
04/03/2008	36	FILED JUDGMENT IN A CRIMINAL CASE as to Jeffrey Musumeci (1), Found guilty to 1, 2, Imprisonment for a total term of 180 Months. Supervised release for a term of Five Years. The Court makes the following recommendations to the Bureau of Prisons: It is recommended that the defendant be placed in the FCI Allenwood - Low facility. It is also recommended that the defendant be placed in a substance abuse treatment program while incarcerated if he meets the criteria for entry into such a program. Special Assessment of \$200 which is due immediately. (Signed by Judge Richard M. Berman on 4/3/08)(jw) (Entered: 04/04/2008)
04/03/2008	38	Letter by Jeffrey Musumeci, addressed to Judge Berman, from Mark M. Baker, atty for dft, dated 4/2/08, re: I have been retained to represent Jeffrey Musumeci for purposes of his anticipated appeal to the U.S. Court of Appeals for the Second Circuit. It is my intention, therefore, to file a notice of appeal following sentencing, if it is held on 4/3/08, for purposes of which dft will continue to be represented by Michael Soshnick, Esq....In closing, we only add that a finding of insufficiency in this regard will salvage, at a minimum, ten years of this man's life! We ask the court-- ever mindful that the offer in state court would have resulted in his only serving four months in jail-- to rule accordingly, and direct a judgment of acquittal for dft on Count Two. (ja) (Entered: 04/04/2008)
04/03/2008	39	Letter by USA as to Jeffrey Musumeci addressed to Judge Berman from Adam S. Hickey dated 2/11/08 re: The Government respectfully submits the following in anticipation of the defendant's sentencing, which is presently scheduled for Thursday, February 14 at 3pm. For the following reasons, a sentence within the Guidelines range of 188 to 235 months is sufficient, but not greater than necessary, to serve the legitimate purposes of sentencing. Finally, as the Government advised defense counsel roughly a month ago, the Government respectfully submits that following the imposition of sentence on February 14, the defendant should be remanded. (jw) (Entered: 04/04/2008)
04/03/2008	40	NOTICE OF APPEAL by Jeffrey Musumeci from 36 Judgment. Filing fee \$ 455.00, receipt number E 646623. (nd) (Entered: 04/08/2008)
04/04/2008	37	Letter by USA as to Jeffrey Musumeci addressed to Judge Berman from AUSA Adam S. Hickey dated 4/2/08 re: submitted in opposition to the deft's motion dated 4/2/08, pursuant to Rule 29 of the F.R.Cr.P., for a judgment of acquittal on Count Two. (bw) (Entered: 04/04/2008)



04/04/2008		Payment of Fine from Jeffrey Musumeci in the amount of \$200.00. Date Received: 4/3/08. (mn) (Entered: 04/04/2008)
04/08/2008		Transmission of Notice of Appeal and Certified Copy of Docket Sheet as to Jeffrey Musumeci to US Court of Appeals re: 40 Notice of Appeal - Final Judgment. (nd) (Entered: 04/08/2008)
04/10/2008	42	SENTENCING MEMORANDUM by Jeffrey Musumeci. Reference letters from friends and family on behalf of dft, attached. (ja) (Entered: 04/11/2008)